



EXHIBIT 2
DATE 02/13/2013
HB 397

MONTANA SECRETARY OF STATE

LINDA McCULLOCH

HB 397: Revise Independent Candidate Filing
House State Administration, RM 455
February 13, 2013 @ 8:00 a.m.
Secretary of State Linda McCulloch's Testimony

Good morning Madam Chair, members of the Committee. For the record, I am Linda McCulloch, Montana Secretary of State. Thank you to Representative Schwaderer for carrying our bill. In support of HB397, I'll briefly speak to a recent federal court ruling on the issue of ballot access for independent and minor party candidates.

Montana's statutory deadline for independent and minor party candidates was challenged in 2008 (Kelly vs Johnson). In 2012, after four years of court proceedings (in which the Secretary of State's Office and the Attorney General's Office spent a considerable amount of time, money and resources defending the law), the U.S. District Court ruled that Montana's filing deadline for non-presidential independent and minor party candidates was unconstitutional.

U.S. District Judge Sam Haddon's stated that the deadline in Montana law "...impose[d] a significant barrier to the exercise of rights protected and guaranteed by the First and Fourteenth Amendments to the Constitution of the United States..." Haddon ruled that when the 2007 Legislature moved the deadline from June to March, it placed a "significant burden" on the rights of independent and minor party candidates. Subsequently, the law reverted back to the way it was before 2007, which requires signatures to be turned in by the Tuesday before the June Primary Election.

Currently, 27 states have a petition filing deadline later than June 30th - which is what this bill will accomplish by moving the deadline to July. The proposed deadline would fall 10 days after ballot issue petitions must be submitted by the counties to the Secretary of State's Office.

Administratively, counties will be done processing the tens of thousands of ballot issue signatures, and will have more adequate time to process the candidate petition signatures. This is a far better time period for election offices than starting the work one week before Primary Election Day.

This bill makes sense for Montana. It will help administratively at the county and state level; it will increase ballot access to ensure all candidates have the opportunity to run for office; and it should uphold the court ruling regarding filing deadlines for independent and minor party candidates. I urge you to "vote" yes. Thank you for your time.